

61—2.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 2.2(17A,22). Unless otherwise stated, the authority for this office to maintain the record is provided by Iowa Code chapter 13, the statutes governing the subject matter of the record, and the enabling statutes of the agency client, where applicable. Because this office primarily acts as an attorney for the state, its officers and agencies, almost all record categories contain information which is confidential as attorney work product or attorney-client communications. Those privileges may render some or all of the following information confidential whether or not asserted in the description of the record. The record systems maintained by the agency are:

2.14(1) *Escheats to the state.* Records concerning possible escheats to the state under Iowa Code sections 633.543 to 633.546. These records consist primarily of court records and correspondence concerning estates. This office advises the department of revenue, which maintains the original records.

2.14(2) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include pleadings, briefs, depositions, discovery material, docket sheets, documents, general correspondence, attorney-client correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. Most of these records are paper files. However, some case management records and other records are in computer form. The files are generally maintained by division and are commonly indexed by the name of the opposing party. Some files are indexed by subject matter, witness, agency, or other category. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

2.14(3) *Criminal data.* Information pertaining to criminal investigations and charges and criminal history and intelligence data is confidential under Iowa Code sections 692.3, 692.8, 692.18. This office has records concerning criminal cases and investigations as a result of prosecutions brought by the area prosecutor's division, appeals by the criminal appeals division, advice to the department of public safety, and other law enforcement functions of the attorney general. Peace officer investigative reports containing criminal investigative data are confidential under Iowa Code section 22.7(5), prior to and following the filing of a charge, except as otherwise ordered by the court. Investigative information obtained through grand jury proceedings or pursuant to a prosecuting attorney's subpoena is confidential under Iowa Rules of Criminal Procedure 3, 4, and 5(6). Confidential informant information is protected under Iowa Code section 22.7(18). Minutes of testimony or evidence attached to an indictment or trial information are not open to inspection by any person other than the court, the prosecuting attorney, or the defendant and defendant's counsel under Rule 4(6)(b). Constitutional restraints, statutes, the Rules of Criminal Procedure, the Iowa Code of Professional Responsibility, and the American Bar Association Standards on pretrial publicity further restrict dissemination of investigative information in criminal cases prior to or during the course of a criminal trial proceeding.

Except as noted above, the charging document and pleadings filed in criminal cases are public records. Copies may be obtained from the clerk of the appropriate court where the official record of the proceeding is maintained.

2.14(4) *Other investigative files.* This office from time to time conducts investigations for a variety of purposes other than enforcement of criminal statutes. Investigative materials are subject to any applicable confidentiality requirements and may be confidential as attorney work product.

2.14(5) *Attorney advice records.* Attorneys in many divisions represent state agencies and officers as well as provide advice to state agencies and officers on a variety of topics. In the course of this representation this office compiles records from those agencies and creates records. These files may contain legal research, attorneys' notes, attorney advice, investigative materials, etc. Attorney advice files often overlap with litigation files. Much of this information is confidential as attorney work product or attorney-client communication. Some of it may also be confidential under other law governing dissemination of the subject matter or governing access to the agency records in question. Some of these files may be retrieved

by the names of individuals in division files; the files may have information concerning individuals who are involved in the legal matter. Most of the records are in paper form; some are stored in computerized form.

2.14(6) *Antitrust investigations.* The special litigation division has records of investigations of alleged violations of Iowa Code chapter 533 or other antitrust laws. Information obtained in an investigation under Iowa Code section 533.9 is confidential as provided in that section. These files may also contain attorney notes and memos protected as attorney work product. Pleadings may be obtained from appropriate clerk of court.

2.14(7) *Claim files.* The tort claims division maintains files of general claims against the state, tort claims, and highway claims. The transportation division maintains files of claims against the department of transportation. These files are maintained pursuant to Iowa Code chapters 25 and 669. The files are retrievable by number or name of the claimant. These files contain information which is confidential as attorney work product and attorney-client communications and may contain information which is confidential under other applicable provisions of law. Those matters within the files which are open for public inspection are copies of records within the possession of the state appeal board. Requests to examine and copy claim records would generally be referred to the executive secretary of the state appeal board who maintains the official record.

2.14(8) *Consumer protection division and farm division complaints files.* These files contain consumer complaints, investigations, responses from businesses, correspondence, and other materials. The complaints themselves, including but not limited to consumer credit code complaints under Iowa Code chapter 537, and inquiries concerning complaints are open records. Some responses and information received during a potential investigation, investigation, or litigation may be confidential under Iowa Code sections 22.7(3), 22.7(6), 22.7(18), and 622.11. Work product of an attorney or an investigator at an attorney's direction is considered to be confidential work product. The name or identity of a person whose acts or conduct the administrator of the consumer credit code investigates pursuant to Iowa Code section 537.6106, and the facts disclosed in the investigation, are confidential under Iowa Code section 537.6106(4). Criminal history or intelligence data contained in a file is confidential under Iowa Code sections 22.7(5), 692.13, and 692.18.

2.14(9) *Consumer protection and farm division database files.* Some of the information in complaint files is also contained on a computer database for investigative purposes pursuant to the consumer fraud Act, Iowa Code section 714.16. This serves as a means of organizing information on particular problem areas into a readily accessible format. The information can be retrieved by name of the consumer or respondent or by subject matter of the complaint. The records are subject to the same confidentiality provisions as are complaint files.

2.14(10) *Records.* State of Iowa files are a subpart of the complaint file system and contain general information on an individual or business including correspondence, investigative information, agency subpoenas, demands for information and responses. Work product information contained in the state of Iowa file is considered confidential. The records are subject to the same confidentiality provisions as are complaint files.

2.14(11) *Consumer protection and farm division investigative records.* The consumer protection division and farm division participate with the Federal Trade Commission, the United States Postal Service and other state attorneys general offices in sharing investigative information. The information is computerized and indexed by the name of the business or individual who is under investigation. The agencies who participate in these information exchange programs do so pursuant to agreements whereby the information is kept confidential. The records are confidential pursuant to Iowa Code sections 22.7(4) and 22.9. The attorney general's office has determined that the viability and utility of these information-sharing systems depend, in part, on the willingness of the Federal Trade Commission and United States Postal Service to participate. Neither of those agencies of the federal government would participate in the information-sharing program unless the confidentiality of the data was maintained. In order, therefore, to prevent the denial of services and information provided by these agencies, the information will be kept confidential and any requirements to the contrary in Iowa Code chapter 22 must be waived as provided in Iowa Code section 22.9.

2.14(12) *Human services monetary collections records.* The human services division maintains on behalf of the Iowa department of human services monetary collection files which contain correspondence, settlement, litigation, and collection records. Collections files for medical subrogation/Title XIX contain information relative to Title XIX medical assistance claims paid on behalf of a recipient, including printouts, copies of claims, correspondence and pleadings regarding personal injury lawsuits; this information is collected under Iowa Code section 249A.6 and chapter 13 and is confidential under Iowa Code section 217.30. Collections files for mental health institutes contain information relative to treatment and counseling on an outpatient self-pay basis. The information is confidential under Iowa Code sections 22.7(2), 217.30, 229.24, and 229.25, and chapter 228. Hospital schools collection records contain similar information about individuals and are confidential under Iowa Code sections 22.7(2), 217.30, and 218.22, and chapter 228. Veterans home collections files contain information relating to patient treatment, residency, financial qualifications, and contracts. The information is confidential under Iowa Code sections 22.7(2), 217.30, and 218.22. Some records are also confidential as work product or attorney-client communications. Personally identifiable information about mental health institutes, hospital schools, and veterans home patients is collected under the authority of Iowa Code sections 218.1 and 218.21, and chapter 13. This information is stored in paper form.

2.14(13) *Personnel files.* The department and individual divisions maintain files containing information about employees and applicants for positions with the agency. The files contain payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information may be confidential under Iowa Code sections 22.7(11) and 22.7(18). The transportation division personnel records for former employees after one year are transferred to the department of transportation human resources bureau. Personnel records are stored in both paper and computerized form.

2.14(14) *Child support recovery records.* Attorneys assigned to the child support recovery unit of the department of human services maintain records necessary for the performance of legal services for the child support recovery program, the enforcement of laws for the recovery of child support from responsible relatives, and the supervision of county attorneys in the recovery of child support. These records are confidential under Iowa Code sections 217.30, 252B.9 and as attorney work product and attorney-client communications.

2.14(15) *Sharing of information with child support recovery unit.* Notwithstanding any statutory confidentiality provision, the attorney general may share information with the child support recovery unit through manual or automated means for the sole purpose of identifying registrants or applicants subject to enforcement under Iowa Code chapter 13C, 252J or 557B.